

**COUNCIL MEETING NOTICE and AGENDA
WEDNESDAY, NOVEMBER 14, 2012
9:00 A.M. OR SOON THEREAFTER**

**COUNCIL CHAMBERS
Historic County Building
4396 Rice Street, Suite 201
Līhu'e, Kaua'i, Hawai'i 96766**

'12 NOV -8 P 6 :20

A. MEETING CALLED TO ORDER.

B. ROLL CALL.

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

C. APPROVAL OF AGENDA.

D. MINUTES of the following meetings of the Council:

1. October 3, 2012 Special Council Meeting
2. October 10, 2012 Council Meeting
3. October 24, 2012 Public Hearing re: Bill No. 2450

E. CONSENT CALENDAR:

1. C 2012-422 Communication (10/12/2012) from the Chief, Engineering Division, Department of Public Works, transmitting for Council approval, a Resolution establishing a School Bus Stop on Kōloa Road in the vicinity of Honuhonu Place, Kōloa District, as requested by Ms. Julie Simonton, with concurrence from Mr. Hughes Ebinger, Department of Education, Bus Transportation Services. *(See Resolution No. 2012-54)*
2. C 2012-423 Communication (10/16/2012) from the Chief, Engineering Division, Department of Public Works, transmitting for Council approval, a Resolution establishing "No Parking At Any Time" along a portion of Po'ipū Road between the Grand Hyatt Employee Parking Lot entrance and its intersections with Pe'e Road, as requested by Mr. Adrian M. Beltran, President of the Po'ipū Kai Association. *(See Resolution No. 2012-55)*

3. C 2012-424 Communication (10/17/2012) from the Chief, Engineering Division, Department of Public Works, transmitting for Council approval, a Resolution repealing Resolution No. 2005-61, relating to School Bus Stops on Akalei Street and Lilia Street, and establishing new School Bus Stops on Pualei Street and Lilia Street, 'Ele'ele Nani Subdivision, Kōloa District, as requested by Ms. Caroline Bigno, with concurrence from Mr. Hughes Ebinger, Department of Education, Bus Transportation Services. *(See Resolution No. 2012-56)*
4. C 2012-425 Communication (10/17/2012) from the Chief, Engineering Division, Department of Public Works, transmitting for Council approval, a Resolution repealing Item Five (5) of Section 1, Resolution No. 54-91, and establishing a new maximum speed limit of ten miles per hour (10 MPH) and twenty-five miles per hour (25 MPH) along portions of Kalihiwai Road, Hanalei District. *(See Resolution No. 2012-57)*
5. C 2012-426 Communication (10/17/2012) from Councilmember Kuali'i, transmitting for Council consideration, a Resolution in support of reducing greenhouse gas pollution under the Clean Air Act. *(See Resolution No. 2012-58)*
6. C 2012-427 Communication (10/25/2012) from Councilmember Bynum, transmitting for Council consideration, a Resolution relating to the acquisition of a public access easement to Pāpa'a Bay. *(See Resolution No. 2012-59)*
7. C 2012-428 Communication (09/20/2012) from Council Vice Chair Yukimura, transmitting for Council consideration, a Proposed Draft Bill for an Ordinance Amending Section 19-1.4 of the Kaua'i County Code 1987, as Amended, Relating to Parks and Recreation - General Prohibitions Applicable To All Parks and Recreation Facilities. *(See Proposed Draft Bill (No. 2458))*
8. C 2012-429 Communication (10/26/2012) from Council Vice Chair Yukimura, transmitting for Council consideration, a Proposed Draft Bill for an Ordinance to Amend Chapter 8, Kaua'i County Code 1987, relating to the Comprehensive Zoning Ordinance Special Standards For Issuance of Farm Worker Housing Use Permits. *(See Proposed Draft Bill (No. 2459))*

F. COMMUNICATIONS:

1. C 2012-430 Communication (10/22/2012) from Councilmember Kualii and Councilmember Rapozo requesting Council approval, to submit the 2014-2015 Western Interstate Region (WIR) Conference Request For Proposal (RFP) to apply to host the WIR Conference in May 2015.
2. C 2012-431 Communication (10/29/2012) from Councilmember Nakamura requesting Council approval, for the public release of the County Attorney's opinion dated October 8, 2012 regarding the authority of the Office of the Prosecuting Attorney to offer a Diversion Program.
3. C 2012-432 Communication (11/08/2012) from Councilmember Kualii, transmitting for Council approval, the following proposals to be included in the 2013 Kauai County Legislative Package:
 1. A BILL FOR AN ACT RELATING TO ENERGY RESOURCES (proposed by Council Vice Chair JoAnn A. Yukimura)
 2. A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING CREDITS (proposed by Council Vice Chair JoAnn A. Yukimura)
 3. A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES – Public Land Development Corporation (proposed by Councilmember KipuKai Kualii)
 4. A RESOLUTION AND CONCURRENT RESOLUTION URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX (proposed by Council Chair Jay Furfaro)
 5. A BILL FOR AN ACT RELATING TO LIABILITY (proposed by the Administration)
 6. A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING (proposed by the Administration)

4. C 2012-433 Communication (11/08/2012) from Councilmember Kualii, transmitting for Council approval the following proposals to be included in the 2013 Hawai'i State Association of Counties (HSAC) Legislative Package (the Intergovernmental Relations Committee recommended approval of the following items at its meeting held on November 8, 2012; See Committee Report No. 2012-05:
1. A BILL FOR AN ACT RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING (County of Hawai'i)
 2. A HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE OF HAWAII CHIEF ELECTION OFFICER AND ELECTIONS COMMISSION TO ESTABLISH A MECHANISM TO MONITOR THE COUNTIES' READINESS TO CONDUCT AN ELECTION AND TO INTERVENE IF NECESSARY (County of Hawai'i)
 3. A BILL FOR AN ACT RELATING TO FOOD LABELING (County of Maui)
 4. A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE (City and County of Honolulu)
 5. A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY (City and County of Honolulu)
 6. A BILL FOR AN ACT RELATING TO VOTING (City and County of Honolulu)
 7. A CONCURRENT RESOLUTION URGING THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL TO EASE VISA RESTRICTIONS FOR THE PEOPLE'S REPUBLIC OF CHINA (City and County of Honolulu)
 8. A RESOLUTION/CONCURRENT RESOLUTION URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX (City and County of Honolulu)
 9. A BILL FOR AN ACT RELATING TO HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND BOARD OF TRUSTEES (City and County of Honolulu)
-

10. A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM (City and County of Honolulu)
11. A BILL FOR AN ACT RELATING TO ELECTRONIC WASTE RECYCLING (City and County of Honolulu)
12. A BILL FOR AN ACT RELATING TO TRAFFIC INFRACTIONS (City and County of Honolulu)
13. A BILL FOR AN ACT RELATING TO ENERGY RESOURCES (County of Kaua'i)
14. A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING CREDITS (County of Kaua'i)
15. A BILL FOR AN ACT RELATING TO THE PUBLIC LAND DEVELOPMENT CORPORATION (HSAC Proposal)

5. C 2012-434 Communication (11/12/2012) from the Executive on Aging, requesting Council approval to receive and expend State funds in the amount of \$88,683.00 for implementing the Hawai'i System Change Initiative Five Year Plan, and to indemnify the State of Hawai'i, Executive Office on Aging. (Copies of Contract and Hawai'i Systems Change Initiative Five (5) Year Plan on file in the County Clerk's Office.)
6. C 2012-435 Communication (10/30/2012) from the Housing Director, requesting Council approval to decline the County's option to repurchase Unit No. 19, Villas at Puali, located at 1908 Hokunui Place, Līhu'e, Hawai'i, 96766, and to grant the owner a waiver of the buyback and allow the market sale of the unit for a period of one-year.

G. LEGAL DOCUMENTS:

1. C 2012-385 Communication (08/28/2012) from the Civil Defense Manager, recommending Council approval of the second amendment to the five (5) year license agreement between the County of Kaua'i and Bank of Hawai'i, Trustee of the Kukuilono Park Trust Estate, extending the County's license for the 800 MHz radio site located at Kukuilono Park in Kalāheo, Kaua'i, Hawai'i, for emergency radio communications for the County of Kaua'i, which license fee will be paid in incremental increases of three percent (3%) each year for the five (5) year period commencing July 1, 2012.
 - Second Amendment of License Agreement
(*Deferred 10/24/2012*)

2. C 2012-436 Communication (10/22/2012) from the Director of Parks and Recreation, recommending Council approval of the Katsura Purchase Agreement, Amendment No. 1, and Cancellation of Easement, TMK (4) 4-3-009-042 (portion), at an additional cost of \$896.00.
- Amendment No. 1 To Purchase Agreement
 - Cancellation of Easement

H. CLAIMS:

1. C 2012-437 Communication (10/19/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Hawai'i Telecom for property damage, pursuant to Section 23.06, Charter of the County of Kaua'i.
2. C 2012-438 Communication (10/22/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Raymond Desjardins for property damage, pursuant to Section 23.06, Charter of the County of Kaua'i.
3. C 2012-439 Communication (10/23/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Hawai'i Pacific Trenchless Inc. for services rendered, pursuant to Section 23.06, Charter of the County of Kaua'i.
4. C 2012-440 Communication (10/30/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by James Fain for property damage, pursuant to Section 23.06, Charter of the County of Kaua'i.
5. C 2012-441 Communication (10/30/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Joseph Furfaro for fees paid by claimant, pursuant to Section 23.06, Charter of the County of Kaua'i.

I. COMMITTEE REPORTS:

1. PLANNING COMMITTEE REPORT:

- a. **CR-PL 2012-09:** on Bill No. 2450 A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO ZONING DESIGNATION IN LIHU'E, KAUAI (Department of Water, County of Kaua'i, Applicant)
[Approved.]

2. INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT:

- a. **CR-IGR 2012-04:** on IGR 2012-05 Communication (10/15/2012) from Mel Rapozo, Hawai'i State Association of Counties (HSAC) President, requesting agenda time to discuss a proposed State Bill entitled "A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR" that the Maui County Council is considering for the 2013 Maui County Legislative Package.
[Received for the record.]
- b. **CR-IGR 2012-05:** on IGR 2012-08 Communication (10/15/2012) from Mel Rapozo, Hawai'i State Association of Counties (HSAC) President, transmitting for Council consideration the following proposals to be included in the 2013 HSAC Legislative Package:
1. A BILL FOR AN ACT RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING (County of Hawai'i) **[Approved.]**
 2. A BILL FOR AN ACT RELATING TO THE DEFINITION OF INDIGENT AND PARTIALLY INDIGENT (County of Hawai'i) **[Motion to Approved, Failed.]**
 3. A BILL FOR AN ACT RELATING TO GALLONAGE TAX ON LIQUOR (County of Hawai'i) **[Received for the Record.]**
 4. A BILL FOR AN ACT RELATING TO FOOD LABELING (County of Hawai'i) **[Received for the Record.]**
 5. A HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE OF HAWAII CHIEF ELECTION OFFICER AND ELECTIONS COMMISSION TO ESTABLISH A MECHANISM TO MONITOR THE COUNTIES' READINESS TO CONDUCT AN ELECTION AND TO INTERVENE IF NECESSARY (County of Hawai'i) **[Approved.]**
 6. A BILL FOR AN ACT RELATING TO FOOD LABELING (County of Maui) **[Approved.]**
 7. A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE (City and County of Honolulu) **[Approved.]**
 8. A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY (City and County of Honolulu) **[Approved.]**

9. A BILL FOR AN ACT RELATING TO VOTING (City and County of Honolulu) **[Approved.]**
10. A CONCURRENT RESOLUTION URGING THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL TO EASE VISA RESTRICTIONS FOR THE PEOPLE'S REPUBLIC OF CHINA (City and County of Honolulu) **[Approved.]**
11. A RESOLUTION / CONCURRENT RESOLUTION URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX (City and County of Honolulu) **[Approved.]**
12. A BILL FOR AN ACT RELATING TO HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND BOARD OF TRUSTEES (City and County of Honolulu) **[Approved.]**
13. A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM (City and County of Honolulu) **[Approved.]**
14. A BILL FOR AN ACT RELATING TO ELECTRONIC WASTE RECYCLING (City and County of Honolulu) **[Approved.]**
15. A BILL FOR AN ACT RELATING TO TRAFFIC INFRACTIONS (City and County of Honolulu) **[Approved.]**
16. A BILL FOR AN ACT RELATING TO ENERGY RESOURCES (County of Kaua'i) **[Approved.]**
17. A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING CREDITS (County of Kaua'i) **[Approved.]**
18. A BILL FOR AN ACT RELATING TO THE PUBLIC LAND DEVELOPMENT CORPORATION (HSAC Proposal) **[Approved.]**

- c. **CR-IGR 2012-06:** on IGR 2012-04 Communication (10/08/2012) from Councilmember Kualii, transmitting for Council consideration a proposed Bill for Act to repeal Act 55, Session Laws of Hawai'i 2011, relating to the Department of Land and Natural Resources – Public Land Development Corporation (PLDC), for inclusion in the 2013 Kaua'i County Legislative Package. **[Approved for inclusion in the 2013 Kaua'i County Legislative Package.]**
- d. **CR-IGR 2012-07:** on IGR 2012-06 Communication (10/16/2012) from the Mayor, transmitting for Council consideration, two (2) State Bills that did not pass during the 2012 Legislative Session, which the Administration would like included in the 2013 Kaua'i County Legislative Package:
- HB 1753, HD1, Relating to Liability, with testimony **[Approved for inclusion in the 2013 Kaua'i County Legislative Package.]**
 - HB 2627, HD1, Relating to Collective Bargaining, with testimony **[Approved for inclusion in the 2013 Kaua'i County Legislative Package.]**
- e. **CR-IGR 2012-08:** on IGR 2012-07 Communication (10/18/2012) from Council Chair Furfaro, transmitting for Council consideration, proposed State Resolutions and Concurrent Resolutions urging the Governor and the Hawai'i State Legislature to preserve the Counties' share of the Transient Accommodations Tax, for inclusion in the 2013 Kaua'i County Legislative Package. **[Approved for inclusion in the 2013 Kaua'i County Legislative Package.]**

J. RESOLUTIONS:

1. Resolution No. 2012-54, RESOLUTION ESTABLISHING A SCHOOL BUS STOP ON KŌLOA ROAD, IN THE VICINITY OF ITS INTERSECTION WITH HONUONU PLACE, KŌLOA DISTRICT

2. Resolution No. 2012-55, RESOLUTION ESTABLISHING NO PARKING AT ANY TIME ALONG PORTIONS OF PO'IPŪ ROAD IN THE KŌLOA DISTRICT

3. Resolution No. 2012-56, RESOLUTION REPEALING RESOLUTION NO. 2005-61 AND ESTABLISHING TWO (2) NEW SCHOOL BUS STOPS ON PUALEI STREET AND LILIA STREET, 'ELE'ELE NANI SUBDIVISION, KŌLOA DISTRICT

4. Resolution No. 2012-57, RESOLUTION REPEALING ITEM FIVE (5), SECTION I OF RESOLUTION NO. 54-91, RELATING TO THE MAXIMUM SPEED LIMIT OF TWENTY-FIVE MILES PER HOUR (25 MPH) ON KALIHIWAI ROAD, AND ESTABLISHING NEW MAXIMUM SPEED LIMITS OF TEN MILES PER HOUR (10 MPH) AND TWENTY-FIVE MILES PER HOUR (25 MPH) ALONG PORTIONS OF KALIHIWAI ROAD, HANAIEI DISTRICT

5. Resolution No. 2012-58, RESOLUTION IN SUPPORT OF REDUCING GREENHOUSE GAS POLLUTION UNDER THE CLEAN AIR ACT

6. Resolution No. 2012-59, RESOLUTION RELATING TO THE ACQUISITION OF A PUBLIC ACCESS EASEMENT TO PĀPA'A BAY

K. BILLS FOR FIRST READING:

1. Proposed Draft Bill (No. 2458) – A BILL FOR AN ORDINANCE AMENDING SECTION 19-1.4 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PARKS AND RECREATION (General Prohibitions Applicable To All Parks And Recreation Facilities)

2. Proposed Draft Bill (No. 2459) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (Special Standards For Issuance Of Farm Worker Housing Use Permits)

L. BILLS FOR SECOND READING:

1. Bill No. 2433, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO AMENDING THE COMPREHENSIVE ZONING ORDINANCE IN ITS ENTIRETY (See also CR-PL 2012-06; the Planning Committee recommended approval on second and final reading.) **(Deferred 9/26/12)**

2. Bill No. 2450 – A BILL FOR AN ORDINANCE REGARDING AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO ZONING DESIGNATION IN LĪHU'E, KAUAI (Department of Water, County of Kaua'i, Applicant) (See also CR-PL 2012-09; the Planning Committee recommended approval on second and final reading.)

M. EXECUTIVE SESSION: Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-7(a), the Council may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a). (Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.)

N. ADJOURNMENT.

O. PUBLIC HEARING NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for public hearings on the following. After the public hearings, the Council will reconvene to complete any unfinished business.

*[*For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.]* **For a copy of the notice, please go to:**
<http://www.kauai.gov/Government/CountyCouncil/CouncilAgendasandPublicHearingNotices/tabid/73/Default.aspx>

1. **Bill No. 2451** – A BILL FOR AN ORDINANCE REGARDING AMENDING ZONING CONDITIONS IN ORDINANCE NO. PM-175-88, RELATING TO ZONING DESIGNATION IN PRINCEVILLE, KAUAI (Princeville SC Development, LLC, Applicant)
2. **Bill No. 2452** - AN ORDINANCE ADDING A NEW SECTION TO ARTICLE 1, CHAPTER 19 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PARKS AND RECREATION (Prohibiting Fishing at Lydgate Beach Park Pond)
3. **Bill No. 2453** – A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 14, KAUAI COUNTY CODE 1987, AS AMENDED RELATING TO THE PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION FUND

P. NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LĪHU'E, KAUAI. TELEPHONE NO. 241-4188. FAX NO. 241-6349.